NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOE GARCIA ESPITIA, Petitioner - Appellant, v. ANTHONY KANE, Respondent - Appellee.	No. 01-55879 D.C. No. CV-00-00828-RJT MEMORANDUM[*]

On Remand from the United States Supreme Court

Before: CANBY, HANSEN,[**] and RAWLINSON, Circuit Judges.

This case returns to us on remand from the United States Supreme Court. See Kane v. Espitia, 126 S. Ct. 407 (2005) (per curiam), rev'g Espitia v. Ortiz, 113 Fed. Appx. 802 (9th Cir. 2004) (unpublished memorandum disposition). In our prior opinion, we concluded that the district court erred by denying Joe Garcia Espitia's 28 U.S.C. § 2254 petition because the State had denied him pretrial access to a law

[*] This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

[**] The Honorable David R. Hansen, Senior United States Circuit Judge for the Eighth Circuit, sitting by designation.

library. We relied on our holding in Bribiesca v. Galaza, 215 F.3d 1015, 1020 (9th Cir. 2000), that a criminal defendant who represents himself at trial, as Espitia did, has a clearly established constitutional right to access to a law library. See Ortiz, 113 Fed. Appx. at 804.

After granting the State's petition for certiorari, the Supreme Court reversed Ortiz and overruled Bribiesca. The Supreme Court held that a pro se criminal defendant does not have a clearly established right to access to a law library. See Kane, 126 S. Ct. at 408 ("The Bribiesca court and the court below therefore erred in holding, based on Faretta [v. California, 422 U.S. 806 (1975)], that a violation of a law library access right is a basis for federal habeas relief.")

Accordingly, we now affirm in all respects the district court's denial of Espitia's petition for a writ of habeas corpus because the California Court of Appeal's opinion affirming Espitia's conviction was neither "contrary to" nor "an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States." See 28 U.S.C. § 2254(d)(1).

AFFIRMED.